

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

TIMOTHY MARQUARDT,

§

Petitioner,

§

v.

1:23-CV-984-RP
[1:16-CR-59-RP-1]

UNITED STATES OF AMERICA,

§

Respondent.

§

ORDER

Before the Court is Petitioner Timothy Marquardt’s (“Marquardt”) Motion Under 28 U.S.C.

§ 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody. (Dkt. 56).

Marquardt filed his motion on August 21, 2023. (*Id.*). The case was referred to United States Magistrate Judge Susan Hightower for findings and recommendations, pursuant to 28 U.S.C. § 636(b). Judge Hightower filed her report and recommendation on October 30, 2023. (Dkt. 59). In her report and recommendation, Judge Hightower recommends that the Court dismiss Marquardt’s motion “as time-barred under the one-year statute of limitations in 28 U.S.C. § 2255(f)(1).” (*Id.* at 4). Marquardt received the report and recommendation no later than November 7, 2023 and requested a 30-day extension to reply to the report and recommendation. (Dkt. 61). By text order dated December 5, 2023, the Court extended Marquardt’s deadline to reply to the report and recommendation until December 22, 2023. As of the date of this order, Marquardt has not filed any objections to the report and recommendation.

A party may serve and file specific, written objections to a magistrate judge’s findings and recommendations within fourteen days after being served with a copy of the report and recommendation and, in doing so, secure *de novo* review by the district court. 28 U.S.C. § 636(b)(1)(C). When no objections are timely filed, a district court can review the magistrate’s

report and recommendation for clear error. *See* Fed. R. Civ. P. 72 advisory committee's note ("When no timely objection is filed, the [district] court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation."). Because no party has filed timely objections, the Court reviews the report and recommendation for clear error. Having done so and finding no clear error, the Court accepts and adopts the report and recommendation as its own order.

Accordingly, **IT IS ORDERED** that the report and recommendation of United States Magistrate Judge Susan Hightower, (Dkt. 59), is **ADOPTED**. Marquardt's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside or Correct Sentence by a Person in Federal Custody, (Dkt. 56), is **DISMISSED** as time-barred under the one-year statute of limitations in 28 U.S.C. § 2255(f)(1).

It is **FURTHER ORDERED** that a certificate of appealability is **DENIED**.

SIGNED on January 18, 2024.



ROBERT PITMAN
UNITED STATES DISTRICT JUDGE